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*NLNP - NSC files
Subject files
Chemical, Biological
non-Pan-Yok. IV
[part 1]
BOX 312*

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DISTO

SUBJECT: CCD: NEGOTIATION OF BIOLOGICAL WEAPONS CON-
VENTION

1. SET FORTH IN PARAS 3 TO 21 BELOW IS THE RESPONSE THAT WE PROPOSE TO MAKE TO THE SOVIETS (AFTER CONSULTATIONS, FIRST WITH THE UK, AND THEN WITH OTHER NATO ALLIES AND JAPAN) REGARDING THE DRAFT CONVENTION BANNING PRODUCTION AND STOCKPILING OF BIOLOGICAL WEAPONS AND TOXINS THAT THE USSR AND ITS ALLIES TABLED AT THE CCD ON MARCH 30. WE ARE SENDING BY SEPTTEL THE TEXT OF OUR REVISED DRAFT CONVENTION TO WHICH THESE COMMENTS ARE KEYED. WE PLAN TO CONSULT NATO



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ALLIES AND JAPAN AT THE NAC AND CCD AS SOON AS DISCUSSIONS WITH THE UK HAVE BEEN COMPLETED. WE WILL SEND ADDITIONAL INSTRUCTIONS REGARDING THOSE CONSULTATIONS.

2. AMBASSADOR LEONARD SHOULD PRESENT PARAS 3 TO 21 BELOW AND REVISED DRAFT CONVENTION (SEPTEL) TO UK DED ASAP AND URGE UK TO JOIN WITH US IN PROCEEDING WITH SOVS ON THIS BASIS. WE ARE TAKING PARALLEL ACTION IN WASHINGTON WITH UK EMBASSY AND WILL SEND SEPTEL REPORTING THAT CONVERSATION.

3. THE USG IS GRATIFIED THAT THE USSR HAS MADE A CONCRETE PROPOSAL REGARDING THE PROHIBITION OF THE DEVELOPMENT, PRODUCTION AND STOCKPILING OF BIOLOGICAL WEAPONS AND TOXINS AND THEIR DESTRUCTION. WE RECOGNIZE THAT THE DRAFT CONVENTION TABLED BY THE USSR ON MARCH 30 REPRESENTS A SERIOUS APPROACH TO THIS PROBLEM AND WE HOPE THAT IT WILL OPEN THE WAY FOR SUCCESSFUL NEGOTIATION OF A WIDELY ACCEPTED INTERNATIONAL AGREEMENT. SINCE A NUMBER OF THE MOST IMPORTANT CONCEPTS IN THE UK DRAFT HAVE BEEN INCLUDED IN THE SOVIET PROPOSAL, WE ARE PREPARED TO NEGOTIATE ON THE BASIS OF THE SOVIET TEXT.

4. AS TO PROCEDURE, WE BELIEVE WE SHOULD SEEK TO ACHIEVE EXPEDITIOUSLY A DRAFT AGREED UPON BY THE USSR, UK AND US WHICH CAN BE PRESENTED TO THE CCD FOR COMMENTS BY OTHER DELEGATIONS. WE WOULD BE PREPARED TO TABLE A TRIPARTITE USSR-UK-US DRAFT, OR TWO IDENTICAL PARALLEL TEXTS, ONE A USSR DRAFT (TOGETHER WITH ITS ALLIES, IF IT WISHES) AND ONE A UK-US DRAFT. WE WOULD HOPE TO ACHIEVE AN AGREED TEXT EARLY IN THE SUMMER SESSION OF THE CCD SO THAT THE BROADEST POSSIBLE CONSENSUS CAN SUBSEQUENTLY BE REACHED IN THE COMMITTEE REGARDING A TEXT FOR SUBMISSION TO THE 26TH UN GENERAL ASSEMBLY ALONG WITH THE CCD REPORT.

5. IN REVIEWING THE SOVIET DRAFT CONVENTION WE HAVE SOUGHT WHEREVER POSSIBLE TO ACCEPT PROVISIONS ALONG THE LINES OF THAT TEXT. WE ARE PREPARED TO ACCEPT MANY ARTICLES OF THE DRAFT IN WHOLE OR IN PART. IN ORDER TO EXPEDITE ACHIEVEMENT OF AN AGREED DRAFT, WE ARE LIMITING OUR PROPOSALS TO THE FOLLOWING POINTS:

6. ALTHOUGH WE HAVE SUPPORTED THE INCLUSION IN THE UK DRAFT

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CONVENTION OF AN OPERATIVE ARTICLE PREVENTING USE OF BIOLOGICAL WEAPONS UNDER ANY CIRCUMSTANCES, WE ARE PREPARED NOT TO INSIST ON SUCH AN ARTICLE IN THE INTERESTS OF ACHIEVING THE MAIN PURPOSE OF THIS CONVENTION -- ELIMINATION OF BIOLOGICAL WEAPONS. WE BELIEVE IT VERY IMPORTANT, HOWEVER, THAT THE CONVENTION CONTAIN A CLEAR EXPRESSION OF THE DESIRE OF THE PARTIES THAT ELIMINATION OF THESE WEAPONS PRECLUDE THEIR USE UNDER ANY CIRCUMSTANCES. ACCORDINGLY, WE ARE PROPOSING A NEW THIRD PREAMBULAR PARAGRAPH WHICH EXPRESSES THIS IDEA. ALL POTENTIAL PARTIES TO THIS CONVENTION MUST SURELY SHARE THE OBJECTIVE EXPRESSED IN THIS PARAGRAPH AND WE STRONGLY URGE THE SOVIET GOVERNMENT TO ACCEPT IT. FYI: IN OUR VIEW, A PROVISION PROHIBITING ANY USE OF BW, WHILE DESIRABLE, IS NOT A PREREQUISITE TO OUR AGREEMENT TO A DRAFT CONVENTION BANNING BW PRODUCTION AND STOCKPILING. IT IS DIFFICULT TO IMAGINE A USE OF BW THAT WOULD NOT BE ACCOMPANIED BY A VIOLATION OF ARTICLE I, AND THAT ARTICLE THUS WOULD SEEM TO OPERATE AS A PROHIBITION ON BW USE. WE ALSO RECOGNIZE THAT SOME NON-ALIGNED, AS EVIDENCED BY THE SWEDISH PLENARY STATEMENT ON MARCH 9, WOULD OPPOSE SUCH A PROVISION. BY URGING THE SOVIET UNION FROM THE OUTSET TO ACCEPT A PREAMBULAR CLAUSE, WE HOPE TO MAXIMIZE THE POSSIBILITY OF ACHIEVING APPROPRIATE RECOGNITION OF THE IDEA THAT BW SHOULD NOT BE USED IN ANY CIRCUMSTANCES. END FYI

7. WE NOTE THAT THE UK PROPOSAL FOR A COMPLAINTS PROCEDURE INVOLVING THE UN SYG HAS NOT BEEN INCLUDED IN THE USSR DRAFT. IN LIGHT OF THE SOVIET POSITION IN PREVIOUS MULTILATERAL ARMS CONTROL NEGOTIATIONS, WE UNDERSTAND, ALTHOUGH WE DO NOT SUPPORT, THE USSR'S VIEWS REGARDING THE PARTICIPATION OF THE SYG IN IMPLEMENTING TREATY PROCEDURES. ALTHOUGH WE BELIEVE SUCH A PROVISION COULD BE USEFUL IN DETERMINING THE FACTS IN DISPUTE, WE ARE PREPARED TO JOIN IN TABLING A NEW DRAFT WITHOUT IT BECAUSE IT IS NOT ESSENTIAL TO OUR SECURITY INTERESTS. WE ANTICIPATE, HOWEVER THAT OTHER DELEGATIONS MAY STRONGLY URGE THAT A PROVISION INVOLVING THE UN SYG BE INCLUDED IN A FINAL TEXT. WE MAY LATER WISH TO CONSULT ON HOW WE MIGHT ACCOMMODATE SUCH PROPOSALS IF THIS SHOULD BE NECESSARY TO WIN BROAD SUPPORT FOR THE CONVENTION.

8. WE ARE PREPARED TO ACCEPT THE SOVIET PROPOSAL FOR AN ARTICLE ON FURTHER NEGOTIATIONS. (A STYLISTIC CHANGE IN THE

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LAST PHRASE IS INDICATED IN THE TEXT.)

9. WE ARE ALSO PREPARED TO ACCEPT THE SOVIET PROPOSAL THAT THIS CONVENTION CONTAIN A RECIED# CLAUSE AND WE FIND THE LANGUAGE OF THE SOVIET DRAFT ACCEPTABLE.

10. WE APPRECIATE WITH RESPECT TO REFERENCES TO THE GENEVA PROTOCOL IN THE SOVIET DRAFT THAT ONE OF THE USSR'S MAIN CONCERNS IS TO PROTECT THE PROTOCOL. WE ALSO WISH TO DO THIS, BUT WILL, OF COURSE, NOT AGREE TO DO SO IN A WAY THAT IS IN CONFLICT WITH OUR BASIC POSITION REGARDING THAT INSTRUMENT. WE THEREFORE BELIEVE IT ESSENTIAL, AS WELL AS POSSIBLE, THAT THIS CONVENTION NOT PREJUDICE ANY COUNTRY'S POSITION REGARDING THE PROTOCOL AND THAT IT IN NO WAY UNDERMINE THE SIGNIFICANCE OF THAT IMPORTANT AGREEMENT.

11. WE THUS CONSIDER IT ESSENTIAL TO DELETE THE TENTH PREAMBULAR PARAGRAPH OF THE SOVIET DRAFT SINCE IT IS NOT POSSIBLE FOR US TO BE GUIDED BY A UN RESOLUTION AGAINST WHICH WE VOTED AND WITH WHICH WE DISAGREE. MOREOVER, SINCE 36 COUNTRIES ABSTAINED FROM THIS RESOLUTION, WE ARE CONVINCED THAT THE REFERENCE TO IT WOULD PREJUDICE BROAD SUPPORT FOR THE TREATY.

12. WE STRONGLY URGE THAT THE ELEVENTH PREAMBULAR PARAGRAPH BE DELETED. THE SECRETARY GENERAL'S REPORT ON CHEMICAL AND BIOLOGICAL WEAPONS IS ONLY ONE OF A NUMBER OF STUDIES

IN THIS AREA THAT HAVE BEEN NOTED IN UNGA RESOLUTIONS. FOR EXAMPLE, UNGA RESOLUTION 2662 (XXV) ALSO REFERRED TO THE WORLD HEALTH ORGANIZATION REPORT ON THIS SUBJECT. WE DO NOT BELIEVE IT NECESSARY OR APPROPRIATE FOR THE PREAMBLE OF AN IMPORTANT TREATY BETWEEN STATES TO RECITE A LIST OF REFERENCES WHICH HAVE CONTRIBUTED IN VARYING DEGREES TO KNOWLEDGE REGARDING THIS SUBJECT. SPECIFICALLY, OPINIONS IN A REPORT DRAFTED BY PRIVATE EXPERTS FOR THE UNITED NATIONS SHOULD NOT BE GIVEN FORMAL NOTICE IN A TREATY BETWEEN STATES.

13. WE ARE PREPARED TO ACCEPT THE FIRST PART OF THE SOVIET ARTICLE VIII BUT WE CANNOT ACCEPT THE FORMULATION OF THE LAST PHRASE OF THIS ARTICLE. WE DO NOT THINK IT IS APPROPRIATE TO ATTEMPT TO RESOLVE OR DEFINE IN THIS CONVENTION THE

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COMPLEX RELATIONSHIP OF THE PROTOCOL AND INTERNATIONAL LAW. WE THEREFORE STRONGLY URGE SLIGHTLY ALTERED LANGUAGE TO MAKE CLEAR THAT THIS CONVENTION WILL IN NO WAY LIMIT OR DETRACT FROM ANY OF THE OBLIGATIONS OF THE PROTOCOL OR FROM ANY OF THE RULES OF INTERNATIONAL LAW. SUCH A PROVISION SHOULD BE ACCEPTABLE TO ALL POTENTIAL PARTIES BECAUSE IT WOULD AT THE SAME TIME PROTECT BOTH THE PROTOCOL AND INTERNATIONAL LAW.

14. WE UNDERSTAND THE OBJECTIVES OF THE PROVISIONS CONTAINED IN ARTICLES IV AND V OF THE SOVIET DRAFT. WE SHARE THESE OBJECTIVES. WE ALSO WISH TO PRECLUDE ANY POSSIBILITY THAT THIS AGREEMENT COULD BE CIRCUMVENTED IN THE MANNER THAT THE SOVIET ARTICLES IV AND V APPEAR DESIGNED TO PREVENT. HOWEVER, OUR PAST EXPERIENCE IN ARMS CONTROL NEGOTIATIONS, PARTICULARLY IN CONNECTION WITH THE NPT, HAS SHOWN THAT IT IS EXTREMELY DIFFICULT TO FORMULATE PROVISIONS IN THIS AREA WHICH TAKE ADEQUATELY INTO ACCOUNT THE GREAT DIVERSITY OF LEGAL SYSTEMS OF POTENTIAL PARTIES. WE BELIEVE THAT IT WOULD GREATLY SIMPLIFY NEGOTIATIONS, AND BE OF SUBSTANTIVE VALUE, TO UTILIZE LEGAL FORMULATIONS FROM PRIOR TREATIES THAT HAVE BEEN ACCEPTABLE TO A GREAT MANY COUNTRIES. WE THEREFORE PROPOSE UTILIZATION, IN A NEW ARTICLE IV, OF KEY PHRASES CONTAINED IN PARAGRAPH 1 OF ARTICLE III OF THE NPT AND PARAGRAPH 1 OF ARTICLE I OF THE LIMITED TEST BAN TREATY TO ACCOMPLISH THE PURPOSES OF ARTICLES IV AND V, RESPECTIVELY, OF THE SOVIET DRAFT.

15. WE BELIEVE THAT THE NON-PROLIFERATION PROVISIONS OF THIS CONVENTION SHOULD BE BASED ON THE LANGUAGE OF THE NPT. SUCH LANGUAGE SHOULD POSE NO DIFFICULTY FOR ANY COUNTRIES SINCE THERE WOULD BE NO DISTINCTION IN THIS AGREEMENT BETWEEN PARTIES THAT POSSESS THESE WEAPONS AND THOSE THAT DO NOT. ALL PARTIES WOULD AGREE NOT TO ACQUIRE OR RETAIN BIOLOGICAL WEAPONS AND, THEREFORE, IT WOULD BE IN EACH PARTY'S INTEREST THAT ALL OTHER PARTIES BE PRECLUDED BY UNAMBIGUOUSLY CLEAR PROVISIONS FROM HELPING ANY RECIPIENT WHATSOEVER, WHETHER A PARTY OR A NON-PARTY, TO MANUFACTURE OR ACQUIRE BIOLOGICAL WEAPONS.

16. WE AGREE THAT A TIME LIMIT FOR DESTRUCTION SHOULD BE SPECIFIED IN THIS CONVENTION. HOWEVER, IN OUR OWN EXPERIENCE MORE THAN THREE MONTHS IS REQUIRED TO DESTROY STOCKS OF



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B WEAPONS WHILE OBSERVING THE STRICTEST POSSIBLE SAFETY PRECAUTIONS. WE THEREFORE PROPOSE THAT ARTICLE II CALL FOR DESTRUCTION OF STOCKS "AS SOON AS POSSIBLE, BUT NOT LATER THAN (BLANK) MONTHS AFTER THE ENTRY INTO FORCE OF THE CONVENTION." WE WOULD FORESEE FILLING IN THIS BLANK AFTER FURTHER DISCUSSION IN THE COMMITTEE. WE SUGGEST ADDING A PHRASE AT THE END OF THIS ARTICLE TO CLARIFY THE MEANING OF "SAFETY PRECAUTIONS." FYI, WE DO NOT WISH TO SEE ANY AGREEMENT REACHED THAT COULD REQUIRE THE UNITED STATES TO COMPLETE ITS DESTRUCTION PRIOR TO JANUARY 1973. AT A LATER STAGE, WE MAY WISH TO SUGGEST OR SUPPORT INCORPORATING IN ARTICLE II A CLAUSE TO THE EFFECT THAT PARTIES WOULD INFORM EACH OTHER THROUGH NOTICES TO THE DEPOSITARY GOVERNMENTS OF ANY ACTIONS TAKEN IN IMPLEMENTATION OF THIS ARTICLE. ENDI FYI.

17. WE PROPOSE THAT, FOLLOWING THE PRECEDENT OF OTHER ARMS LIMITATION AGREEMENTS, A STANDARD WITHDRAWAL PROVISION BE INCLUDED IN THIS CONVENTION.

18. WE NOTE THAT THE SOVIET CONVENTION DOES NOT INCLUDE A DRAFT SECURITY COUNCIL RESOLUTION, ALTHOUGH ONE IS ATTACHED TO THE UK DRAFT AND SUCH A RESOLUTION WAS PROPOSED EARLIER BY HUNGARY, MONGOLIA, AND POLAND. SINCE THIS CONVENTION WOULD CALL FOR THE SECURITY COUNCIL TO BE PREPARED TO FOLLOW CERTAIN PROCEDURES, WE BELIEVE IT WILL BE NECESSARY TO DEVELOP SUCH A RESOLUTION AT A LATER STAGE.

19. WE ARE PREPARED TO TABLE A DRAFT CONVENTION WITHOUT DESIGNATING THE NUMBER OF PARTIES REQUIRED TO BRING THE CONVENTION INTO FORCE. OUR VIEW, HOWEVER, IS THAT THIS AGREEMENT SHOULD ENTER INTO EFFECT AS SOON AS POSSIBLE AND THAT TWENTY-TWO PARTIES SHOULD BE DESIGNATED. WE CAN, OF COURSE, RETURN TO THIS POINT LATER AFTER WE HAVE RECEIVED THE VIEWS OF OTHER CCD MEMBERS.

20. WITH RESPECT TO THE PREAMBLE, WE URGE THE DELETION OF THE FIRST PARAGRAPH. IN OUR VIEW, THE SECOND PREAMBULAR PARAGRAPH, WITH MINOR CHANGES, WOULD BE A MORE APPROPRIATE OPENING FOR THIS CONVENTION. IT DOES NOT RAISE PROBLEMS REGARDING DIFFERENT PHILOSOPHIES OF ARMS LIMITATION AND DISARMAMENT AND COVERS FULLY THE CONCEPT OF GENERAL AND COMPLETE DISARMAMENT. WE WOULD ADD THE PHRASE "UNDER STRICT

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AND EFFECTIVE INTERNATIONAL CONTROL" WHICH HAS BEEN INCLUDED IN PREVIOUS TREATIES. IN THE NEXT TO THE LAST PREAMBULAR PARAGRAPH WE PROPOSE A CHANGE, THAT WE CONSIDER IMPORTANT, SO THAT THE LANGUAGE ON FURTHER NEGOTIATIONS IN THE PREAMBLE CONFORMS TO THAT USED IN THE OPERATIVE ARTICLE ON FURTHER NEGOTIATIONS.

21. WE ARE PROPOSING A NUMBER OF DRAFTING CHANGES DESIGNED MAINLY TO STRENGTHEN THE CONVENTION.

(A) IN ARTICLE I WE HAVE ADDED THE WORDS "OR TO RETAIN" AFTER THE WORD "ACQUIRE" IN ORDER TO STRENGTHEN THE UNDERTAKING AND TO TIE THIS ARTICLE IN MORE CLOSELY WITH THE PROVISIONS OF ARTICLES II THROUGH IV. IN PARAGRAPH 1 OF ARTICLE I WE HAVE USED THE LANGUAGE OF THE UK DRAFT WHICH WE BELIEVE CONFORMS TO THE RUSSIAN TEXT AND SEEMS PREFERABLE TO US IN ENGLISH. AT THE BEGINNING OF PARAGRAPH 2 WE HAVE ADDED THE WORD "WEAPONS" IN ORDER TO MAKE CLEAR THAT THE PROHIBITION APPLIES ALSO TO WEAPONS AND IN ORDER TO RELATE THIS PROHIBITION MORE CLOSELY TO THE MENTION OF "WEAPONS" IN THE TITLE, THE PREAMBLE, AND OTHER ARTICLES OF THE CONVENTION. WE HAVE DELETED THE WORD "AUXILLIARY" (OR "ANCILLARY") WHICH WE BELIEVE IS UNNECESSARY AND POSSIBLY CONFUSING IN LIGHT OF THE OTHER CHANGES WE PROPOSE. WE BELIEVE THE PHRASE "DESIGNED TO USE" IS MORE PRECISE THAN THE FORMULA "DESIGNED TO FACILITATE" (OR "THE PURPOSE OF WHICH IS TO FACILITATE") SINCE IT MAKES CLEAR THAT THE PROHIBITION WOULD NOT APPLY TO GAS MASKS OR INNOCULATION INSTRUMENTS WHICH COULD "FACILITATE" THE USE OF B AGENTS OR TOXINS FOR HOSTILE PURPOSES. WE HAVE ADDED THE PHRASE "OR IN ARMED CONFLICT" IN ORDER TO GUARD AGAINST ANY CIRCUMVENTION OF THE PROHIBITION ON THE GROUNDS THAT POTENTIAL "USE" COULD BE ALLEGED NOT TO BE "HOSTILE".

(B) WE HAVE REWORDED ARTICLE II IN A WAY THAT SEEMS CLEARER TO US IN ENGLISH. WE HAVE ADDED THE PHRASE "WHICH ARE IN ITS POSSESSION OR UNDER ITS JURISDICTION OR CONTROL" IN ORDER TO CONNECT MORE CLOSELY THE CONCEPTS OF ARTICLE IV TO THIS PROVISION ON DESTRUCTION.

(C) IN THE TITLE AND PREAMBULAR PARAGRAPH 10 WE HAVE PLACED THE WORD "TOXIN" BEFORE THE WORD "WEAPONS" SINCE THIS MORE

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CLEARLY CONVEYS THE INTENT OF THE CONVENTION TO ELIMINATE
TOXINS AS WEAPONS RATHER THAN TOXINS USED FOR PEACEFUL
PURPOSES.

GP-3. IRWIN